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Themesoft, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

THEMESOFT, INC., a Texas corporation,

Plaintiff,

vs.

VINOTH SUBRAMANIAM, an individual, URPAN TECHNOLOGIES, LLC, a California limited liability company, PICK-N-LOOK, LLC, a California limited liability company,

Defendants.

Case No. 5:17-cv-2260

COMPLAINT FOR

1. **VIOLATION OF DEFENSE OF TRADE SECRETS ACT**
2. **VIOLATION OF CALIFORNIA UNIFORM TRADE SECRET ACT**
3. **BREACH OF CONTRACT**
4. **CONVERSION**
5. **BREACH OF DUTY OF LOYALTY**
6. **FRAUD**
7. **VIOLATION OF CAL. BUS. & PROF. CODE SECTION 17200**

DEMAND FOR JURY TRIAL

Plaintiff THEMESOFT, INC. complains and alleges as follows:

1. Plaintiff Themesoft, Inc. (hereinafter "Themesoft") is, and at all relevant times herein was, a corporation organized and existing under the laws of the state of Texas with its principal place of business in the City and County of Dallas, Texas. Themesoft is in the business of providing IT solutions and services to their organizational and business customers.

2. On information and belief, Defendant Vinoth Subramaniam (hereinafter sometimes

referred to as "Subramaniam") is an individual who is believed to currently reside in Sunnyvale, CA. He was, until on or about September 7, 2016, employed by Themesoft in the position of Assistant Managing Director overseeing the sales, marketing, business development and administration of Themesoft's California office. Plaintiff is informed and believes and thereupon alleges that Defendant Subramaniam is also sometimes known as "Pascal Vinoth" and that he uses this name to conduct business in California.

3. On information and belief, Defendant Urpan Technologies, LLC (hereinafter "Urpantech") is a limited liability company organized and existing under the laws of the state of California with its principal place of business in Santa Clara County. In its January 7, 2016 Statement of Information, available on the California Secretary of State's website, defendant Urpantech's principal place of business is 341 Cobalt Way #208, Sunnyvale, California. It lists Subramaniyam Venkata Yammada as its Chief Executive Officer, Agent for Service of Process and its sole Director. Plaintiff alleges, on information and belief, that Subramaniyam Venkata Yammada is the wife of defendant Vinoth Subramaniam.

4. On information and belief, Defendant Pick-N-Look, LLC (hereinafter "Pick-N-Look") is a limited liability company organized and existing under the laws of the state of California with its principal place of business in Santa Clara County. In its September 27, 2016 Statement of Information, available on the California Secretary of State's website, identifies the company's principal place of business as 341 Cobalt Way #208, Sunnyvale, California. It lists defendant Vinoth Subramaniam as Pick-N-Look's Chief Executive Officer, Agent for Service of Process and its sole manager.

5. Plaintiff is informed and believes and thereupon alleges that, at all times herein mentioned, each Defendant was the agent of the other Defendant, and in doing the things alleged herein, were acting within the course and scope of said agency, in that the actions of the Defendants as herein alleged were authorized, approved, and/or ratified by each of the remaining Defendants as principals.

BACKGROUND

6. Plaintiff Themesoft, Inc. ("Themesoft") is a Dallas based, global Information

Technology ("IT") Consulting and Creative Lab firm. Since 2004 Themesoft has helped manage its client's information technology needs so as to refine and define client's digital strategy.

7. Defendant Vinoth Subramaniam is and at all relevant times herein was an individual residing in Fremont, California. He was hired by Themesoft as an Assistant Managing Director in or around October 2015. He was paid an annual salary and tasked with managing 5-10 employees in addition to nurturing sales relationships and soliciting clients/customers for the company. Plaintiff is informed and believes, and thereupon alleges, that Defendant Subramaniam also sometimes uses the name "Pascal Vinoth."

8. At all times during his employment with Themesoft, Defendant Subramaniam was subject to agreements, provisions and policies controlling the use of Themesoft's confidential and proprietary information and aimed at protecting Themesoft's trade secrets and proprietary information.

9. As part of his work with Themesoft, Defendant Subramaniam received access to certain confidential and proprietary information and trade secrets that belonged to Plaintiff and was not otherwise accessible to the public. This included the identity and contact information and pricing for Plaintiff's current customers as well as the scope of projects they retained Themesoft to perform, as well the identity and labor costs for Themesoft's own employees and labor staff.

10. As a technology service provider, the identity of Themesoft's existing and prospective customers and pricing model make up one the most valuable asset the company owns. The company's employees and labor staff, who provide Themesoft's services to those customers on the company's behalf, constitutes the other most valuable asset of the company.

11. Themesoft goes through great effort to secure the confidentiality of its proprietary information and trade secrets. Defendant Vinoth Subramaniam's employment was governed by the terms of a letter agreement and employee handbook, as well as other Themesoft policies and procedures, as set forth herein.

12. On October 5, 2015 Defendant Subramaniam signed a Letter Agreement affirming that he "read, understood and agree to all terms on this letter agreement." The terms included the following:

i. He promised to "devote… [himself]…exclusively to pursuing the interests of Themesoft, Inc.;"

ii. He promised "not [to] attempt to take or divert any business opportunity… that could otherwise go to Themesoft, Inc.;"

iii. He promised he would "neither… solicit or otherwise entice any existing client, customer, project, or employee, to leave or otherwise terminate its, his or her relationship with Themesoft.;"

13. During his employment Defendant Subramaniam was provided access to Plaintiff's confidential and proprietary information and trade secrets for use in furthering Themesoft's business and to perform his job for the company. The information he received or had access to included, without limitation, the identity and contact information of Themesoft's current and prospective customers, the financial terms and pricing provided to said clients and prospective clients, and the identity and contact information for Themesoft's employees. This information was not public and Defendant Subramaniam was permitted access pursuant to the terms of his Letter Agreement and his agreement to comply with the terms and conditions of the Themesoft Handbook.

14. The Themesoft Handbook indicated that "Themesoft, Inc.'s property… trade secrets, and any other confidential information may not be used for any purposes relating to outside employment."

15. The Handbook section on "Confidentiality" stated:

> Themesoft, Inc. takes the protection of confidential business information very seriously. Quite often material is handled by employees that is confidential in nature, either for clients, fellow employees or the organization. Confidentiality at all times must be maintained. Breach of confidentiality may be grounds for immediate dismissal and appropriate legal action. Your employment with our organization assumes an obligation to maintain confidentiality even after you leave our employment. Confidential business information includes, but is not limited to…
>
> - Compensation data
> - Customer lists
> - Financial information
> - Marketing Strategies
> - Pending projects and proposals
> - Personnel/payroll records
> - Research and development strategies.

> Any violation of confidentiality seriously injures our reputation and effectiveness. Therefore, do not discuss company business with anyone who is not in our employ or does not have a direct association with the transaction. Develop the personal discipline necessary to maintain confidentiality as even casual remarks can be misconstrued and misrepresented. If you are questioned by someone outside the organization for information, and are concerned about the appropriateness of giving any information remember that you are not required to answer, and refer the matter to the Office Manager.

16. The Handbook set forth a "Standards of Conduct" which described company rules/standards and warned that employees who "disregard or deviate" from the rules would be subject to disciplinary action up to and including termination. The standards of conduct included in relevant part, the "disclosure of confidential information to an unauthorized party;" "Any misrepresentation of Themesoft, Inc. to a customer, a prospective customer, the general public, or an employee;" as well as any "conflict of interest."

17. The Handbook described "Company Property" as "anything owned by the Company: physical, electronic, intellectual, or otherwise" and wants that "company property is for business necessity only."

18. The Handbook section on "Computer, Email, & Internet Usage" prohibited Defendant Subramaniam from "[s]ending or posting confidential material, trade secrets, or proprietary information outside of the organization."

19. Based on information and belief Plaintiff alleges that between July and September 2016, Defendant Subramaniam actively solicited Themesoft clients to work with Defendant Urpan Technologies, LLC and Defendant Pick-N-Look, LLC and that both companies are owned and/or operated by him or his wife Subramaniyam Venkata Yammada. During this time Mr. Subramaniam used his Themesoft email for communications in which he misrepresented that Themesoft was either unable to perform the work desired by an existing or potential client, and/or that Themesoft somehow consented to assigning work project to Defendant Urpan Technologies, LLC and Defendant Pick-N-Look, LLC.

20. Plaintiff alleges, on information and belief, that Defendant Subramaniam solicited Themesoft client Wipro Ltd, (NYSE: WIT) so as to divert work to Defendant Pick-N-Look and Defendant Uprantech that should otherwise have been handled by Themesoft. Wipro Ltd. is a large

global IT consulting company which provides over $200 million in staffing services annually in 175+ cities across 6 continents. Plaintiff believes and thereupon alleges that Defendants Subramaniam, Pick-N-Look, and Urpantech profited from the Wipro Ltd. business.

21. During his employment Defendant Subramaniam also attempted to solicit Themesoft client Cognizant (NASDAQ-100: CTSH) work with his other companies. Cognizant is an American multinational corporation that provides digital, technology, consulting, and operations services. Plaintiff believes and thereupon alleges that Defendants Subramaniam, Pick-N-Look, and Urpantech profited from the Cognizant business.

22. Plaintiff believes and thereupon alleges, that prior to his resignation, Defendant Subramaniam attempted to solicit and/or actually diverted other Themesoft clients or potential clients and that Defendants Subramaniam, Pick-N-Look, and Urpantech profited from this other business.

23. Plaintiff alleges that the above conduct violated his agreements with Themesoft as well as California law as set forth herein.

24. Furthermore Plaintiff believes, and thereupon alleges, that Defendants' unauthorized use of Plaintiff's confidential and proprietary information included unauthorized communications with Plaintiff's own employees and contractors. Plaintiff believes and thereupon alleges that, while still employed by Themesoft, Defendant Subramaniam attempted to solicit and did in fact solicit Themesoft employees and contractors in order to work with him, Defendant Urpan Technologies, LLC and/or Defendant Pick-N-Look, LLC.

25. Plaintiff believes and thereupon alleges that, after his termination, Defendant Subramaniam continued to utilize business entities under his personal control (including but not limited to Defendant Urpan Technologies, LLC and Defendant Pick-N-Look, LLC) to make unlawful use of Plaintiff's proprietary information, in violation of California law and his Letter Agreement and the Handbook, and to otherwise gain an unfair advantage in the IT service marketplace.

26. Plaintiff believes and thereupon alleges that after his termination in September 2016 Defendant Subramaniam retained unauthorized copies of and continued to use Plaintiff's

confidential and proprietary information and trade secrets for his own personal economic gain. This information included, without limitation, the identity and contact information of Themesoft's current and prospective customers and that of Themesoft's employees. It also included pricing and contract terms between Themesoft and its clients.

27. On September 27, 2016 Plaintiff, through its counsel, demanded that Defendant Defendant Subramaniam promptly return Themesoft's confidential and proprietary information and trade secrets including copies of work product that existed on devices and/or media outside of Themesoft's control. Defendant Subramaniam refused and failed to do so.

JURISDICTIONAL, VENUE AND INTRADISTRICT ASSIGNMENT

28. This Court has subject matter jurisdiction over Plaintiff's federal secret claim pursuant to 18 U.S.C §§ 1836-39 *et seq.* and 28 U.S.C. 1331 and 1343. The Court has diversity jurisdiction under 28 U.S.C. 1332, because the value of the relief to the Plaintiff, i.e., the amount in controversy, exceeds the sum of $75,000 and is between citizens of different States.

29. As set forth above, at least one Defendant resides in this judicial district, and all Defendants are residents of the state of California. In addition, a substantial part of the events or omissions giving rise to the claims alleged in this Complaint occurred within this judicial district. Venue therefore lies in the United States District Court for the Northern District of California pursuant to 28 U.S.C. §§ 1391 (b)(1) and (2).

30. A substantial part of the events giving rise to the claims alleged in this Complaint occurred within the County of Santa Clara. For purposes of intradistrict assignment under Civil Local rules 3-2(c) and 3-5(b) this action will be assigned on a district-wide basis.

31. Plaintiff's investigation continues and Plaintiff therefore reserves the right to amend this complaint to address additional violations discovered after the complaint is filed.

FIRST CAUSE OF ACTION
Violation of Defense of Trade Secret Act
(Against All Defendants)

32. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

33. Plaintiff Themesoft owns and possesses certain confidential, proprietary, and trade

secret information as alleged above. One example is pricing data and scope of projects for Themesoft's customers and the identity and labor costs associated with persons Themesoft uses as individual contractors or employees to perform said work. None of these trade secrets are disclosed to the public.

34. Plaintiff's confidential, proprietary, and trade secret information relates to serves used or sold in, or intended to be used or sold in, interstate commerce or foreign commerce.

35. Plaintiff has taken reasonable measures to keep such information secret and confidential. Defendant Subramaniam was provided access to such trade secrets in his position with Themesoft and, on information and belief, unlawfully used or attempted to use this information for his own personal profit and unlawfully shared this information with entities under his control and/or ownership, Defendant Urpantech and Defendant Pick-N-Look.

36. The proprietary business and customer information of Themesoft, including the information regarding Plaintiff's customers and employees, constitutes a trade secret because Plaintiff, as described herein, derives independent economic value from that information, such information is not readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use, and because the information is the subject of reasonable efforts to maintain its secrecy including provisions in the Letter Agreement and Handbook, each of which applied to restrict the use of said information.

37. By reason of these measures, Plaintiff's confidential, proprietary, and trade secret information is not available for access or use by Plaintiff's competitors in the industry.

38. Themesoft is informed and believes and thereupon alleges that Defendants, and each of them, have misappropriated and continue to threaten to misappropriate Plaintiff's trade secrets in violation of the Defense of Trade Secret Act. Defendants' misappropriation was intentional, willful, malicious, fraudulent and oppressive. Defendants have attempted and continue to conceal their misappropriation.

39. On information and belief, if Defendants are not enjoined, Defendants will continue to misappropriate and use Plaintiff's trade secret information for their own benefit and to Plaintiff's detriment.

40. As the direct and proximate cause of Defendants' conduct, Plaintiff has suffered, and if Defendants' conduct is not stopped, will continue to suffer, severe competitive harm, irreparable injury, and significant damages in an amount to be proven at trial. Because Plaintiff's remedy at law is inadequate, Plaintiff seeks, in addition to damages, temporary, preliminary, and permanent injunctive relief to recover and protect its confidential, proprietary, and trade secret information and to protect other legitimate business interests. Plaintiff operates in a competitive market and will continue suffering irreparable harm absent such injunctive relief.

41. Plaintiff has damaged by all of the forgoing and is entitled to an award of exemplary damages and attorneys' fees.

SECOND CAUSE OF ACTION
Violation of California Uniform Trade Secret Act, Cal. Civ. Code Section 3426 *et seq.*
(Against all Defendants)

42. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

43. At all relevant times alleged herein, Plaintiff Themesoft was in possession of trade secret information as defined by California's Uniform Trade Secrets Act ("CUTSA") Civil Code Section 3426.1(d). As described above, Defendant Subramaniam was provided access to such trade secrets in his position with Themesoft and, on information and belief, unlawfully used this information for his own personal profit and unlawfully shared this information with entities under his control and/or ownership, Defendant Urpantech and Defendant Pick-N-Look. The proprietary business and customer information of Themesoft, including the information regarding Plaintiff's customers and employees, constitutes a trade secret because Plaintiff, as described herein, derives independent economic value from that information, such information is not readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use, and because the information is the subject of reasonable efforts to maintain its secrecy including provisions in the Letter Agreement and Handbook, each of which applied to restrict the use of said information. Plaintiff's trade secret information described herein is not and was not generally known to Plaintiff's competitors in the industry.

44. Themesoft is informed and believes and thereupon alleges that Defendants, and each of them, have actually misappropriated and continue to threaten to misappropriate Plaintiff's trade secrets in violation of CUTSA.

45. As a result of his position with Themesoft, Defendant Subramaniam had access to Plaintiff's valuable trade secrets as described herein and, on information and belief, used this information for his own personal profit and shared this information with Defendants Urpantech and Pick-N-Look. Defendants continue to have knowledge of that information, notwithstanding the fact that Defendant Subramaniam is no longer employed by Plaintiff and is instead working for a competitor and/or Defendant Urpantech or Defendant Pick-N-Look. Plaintiff believes and thereupon alleges that Defendants continue to possess Plaintiff's trade secrets in electronic and in physical format.

46. Defendants knew or should have known under the circumstances that the information misappropriated by Defendants were trade secrets.

47. Defendants intend to improperly use or disclose Plaintiff's trade secrets to others in violation of the CUTSA and their contract with the Plaintiff.

48. Defendants have and will continue to wrongfully use Plaintiff's trade secrets unless enjoined. This is evidenced, in part, by Defendant Subramaniam's refusal to return Plaintiff's trade secrets and proprietary information when Plaintiff demanded its return in September 2016.

49. Defendants, by their fraudulent and deceitful conduct to date, have demonstrated that they cannot be counted on to avoid using or disclosing Plaintiff's trade secrets.

50. As a direct and proximate cause of Defendants' conduct, Plaintiff is threatened with injury and has been injured in an amount in excess of the jurisdictional minimum of this Court and that will be proven at trial. Plaintiff has also incurred, and will continue to incur, additional damages, costs and expenses, including attorney's fees, as a result of Defendants' misappropriation. As a further proximate result of the misappropriation Defendants were unjustly enriched.

51. Defendants' misappropriation was willful, malicious, and fraudulent. Plaintiff is therefore entitled to exemplary damages under California Civil Code § 3426.3(c).

52. Defendants' conduct constitutes transgressions of a continuing nature for which Plaintiff has no adequate remedy at law, Unless and until enjoined by order of this Court, Defendants will continue to retain and use Plaintiff's trade secret information to enrich themselves and divert business away from Plaintiff. Pursuant to Cal. Civil Code § 3426.2, Plaintiff is entitled to an injunction against the misappropriation of trade secrets as alleged herein and further asks the Court to retrain Defendants from using all trade secret information misappropriated from Plaintiff and to return all trade secret information to Plaintiff.

53. Pursuant to California Civil Code § 3246.4 and related law, Plaintiff is entitled to an award of attorneys' fees for Defendants' misappropriation of trade secrets.

THIRD CAUSE OF ACTION
Breach of Contract
(Against Defendant Subramaniam)

54. Plaintiff re-alleges and incorporates each and every allegation of the preceding paragraphs with the same force and effect as though fully set forth herein.

55. In October 2015, Defendant Subramaniam accepted the terms of a Letter Agreement with Themesoft which set forth certain promises as described herein.

56. Plaintiff has performed all of the significant things that the Letter Agreement required it to do including permitting Defendant access to its proprietary information for purposes of performing sales and business development for Themesoft and compensating him for his services to the company consistent with the Letter Agreement.

57. Plaintiff believes and thereupon alleges that Defendant Subramaniam breached his Letter Agreement with Plaintiff by:

i. During his employment he did not devote himself exclusively to pursuing the business interests of Themesoft and, instead, devoted his time and efforts to his personal profit including but not limited to promoting Defendant Pick-N-Look and/or Defendant Urpantech.

ii. During his employment he attempted to take business opportunities for himself that could otherwise go to Themesoft, including but not limited to his attempted solicitation of Themesoft clients Wipro Ltd. And Cognizant;

iii. During his employment he diverted business opportunities for himself that could otherwise go to Themesoft, including but not limited to Themesoft client Wipro Ltd;

iv. During his employment he actively solicited existing clients, customers, projects, and employees, to leave or otherwise terminate its, his or her relationship with Themesoft;

v. He disclosed Themesoft's confidential information that he obtained during his employment to unauthorized third parties including but not limited to other companies he owned and/or operated such as Defendant Pick-N-Look and/or Defendant Urpantech.

58. The above breaches damaged Themesoft by, without limitation, diverting profits that the company would otherwise have received for certain business to Defendant Subramaniam or one of the affiliated companies under his control or ownership.

59. As a result of these breaches of the agreements, Plaintiff has been injured and continues to be injured as set forth herein. Plaintiff seeks appropriate damages arising from the breach(es) including compensatory damages, pre-judgment interest, and all appropriate costs.

Wherefore, Plaintiff prays for judgment as set forth below.

FOURTH CAUSE OF ACTION
Conversion
(Against All Defendants)

60. Plaintiff re-alleges and incorporates each and every allegation of the preceding paragraphs with the same force and effect as though fully set forth herein.

61. Based on conduct wholly independent of the existence, knowledge, misappropriation and usage of Plaintiff's trade secrets, Defendants and each of them removed and retained non-trade secrets but still proprietary and confidential information and property belonging to Plaintiff, without permission or authorization, for their personal economic gain and, on information and belief, for their personal economic benefit and, on information and belief, to use for the benefit of their independent IT service venture.

62. As a proximate result of Defendants, and each of their, removal and retention of non-trade secrets but still proprietary and confidential information and property, Defendants, and each of them, have caused Plaintiff to suffer damages in an amount to be proven at trial.

63. This cause of action is alleged against Defendants both acting together and individually. Plaintiff alleges that it is entitled to joint and several damages according to law.

64. Each of the acts of conversion was done willfully and maliciously, with the deliberate intent to injure Plaintiff's business, thereby entitling Plaintiff to exemplary damages and/or attorneys' fees to be proven at trial.

Wherefore, Plaintiff prays for judgment as set forth below.

FIFTH CAUSE OF ACTION
Breach of Duty of Loyalty
(Against Defendant Subramaniam)

65. Plaintiff re-alleges and incorporates each and every allegation of the preceding paragraphs with the same force and effect as though fully set forth herein.

66. By virtue of his employment with Plaintiff, Defendant Subramaniam owed Plaintiff a duty of loyalty.

67. Defendant breached this duty by, amongst other things, while employed by Plaintiff, failing to disclose that he was operating his own IT service company, engaging in a competing business, actively soliciting Plaintiff's customers and employees on behalf of his competing business(es), taking steps to hide his competing business from Plaintiff and using and disclosing Claimant's proprietary and confidential information and trade secrets for his own use.

68. As a direct result of Defendant's breach of this duty of loyalty, Plaintiff has been damaged, and will continued to be damaged, in an amount to be proven at trial.

Wherefore, Plaintiff prays for judgment as set forth below.

SIXTH CAUSE OF ACTION
Fraud
(Against Defendant Subramaniam)

69. Plaintiff re-alleges and incorporates each and every allegation of the preceding paragraphs with the same force and effect as though fully set forth herein.

70. Defendant Subramaniam represented that during his employment he would perform

sales, marketing and other services for Themesoft while both protecting Themesoft's trade secrets and proprietary information and also not diverting any business opportunities that could otherwise go to Themesoft. He signed the Letter Agreement and understood that he was being provided access to Themesoft's proprietary information and trade secrets for sole use for the benefit of the company and promised not to use such information for any other purpose.

71. These representations were false when made. At the time of his hiring, Subramaniam had already formed the business entity Urpan Technologies and, based on information and belief, Plaintiff alleges that he was intending to use the business entity to compete with Themesoft in the provision of IT services to Themesoft's customers. During his employment with Themesoft Defendant actively solicited Themesoft's customers as customers of his own IT services venture (including but not limited to Defendant Urpantech and Defendant Pick-N-Look), and Themesoft's employees and contract staff to service his own ventures. Defendant did not disclose these activities to, and took actions to actively hide the existence of these activities from, Themesoft.

72. Plaintiff reasonably relied on the above referenced representations by, amongst other things, entering into Letter Agreement with Defendant Subramaniam, providing Defendant Subramaniam with access to its proprietary information, allowing Defendant Subramaniam to work as an Assistant Managing Director for the company and introducing him to employees and clients and customers, and paying Defendant Subramaniam compensation for his services.

73. Plaintiff was harmed by Defendant Subramaniam's deceit and it lost out of revenue because Defendant Subramaniam hid his competing activity from Plaintiff and/or used Plaintiff's proprietary information for his own personal profit.

74. Defendant's deceit was done willfully and maliciously thereby entitling Plaintiff to exemplary damages and/or attorneys' fees to be proven at trial.

Wherefore, Plaintiff prays for judgment as set forth below.

SEVENTH CAUSE OF ACTION
Violation of Cal. Business & Professions Code Section 17200 *et seq.*
(Against Defendant Subramaniam)

75. Plaintiff re-alleges and incorporates each and every allegation of the preceding

paragraphs with the same force and effect as though fully set forth herein.

76. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff and constitute unlawful and unfair business practices in violation of Cal. Bus. & Prof. Code sections 17200, *et esq.*

77. The above-described unlawful and unfair business acts and practices continue to this day. Defendants have received illegal proceeds and have failed to provide full restitution and disgorgement of all ill-gotten monies either acquired or retained by Defendants as a result thereof, as appropriate under California law.

78. Plaintiff therefore seeks an order of this Court for appropriate available remedies under Cal. Bus. & Prof. Code §17203.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter an Order:

1. Temporarily, preliminarily, and permanently enjoining Defendants, and each of them, and all persons acting in concert or participation with Defendants from directly or indirectly:

   a. Obtaining, accessing, using, retaining, utilizing or disclosing Plaintiff's confidential, proprietary, or trade secret information;

   b. Accessing, retrieving, copying, transmitting, or disseminating any and all hard copies or electronic data containing Plaintiff's trade secrets and/or confidential information and/or any other Plaintiff data, documents, or property;

   c. Deleting, destroying, shredding, altering, erasing, or otherwise modifying or causing or permitting anyone else to delete, shred, destroy shred, alter, erase or otherwise modify any evidence relating to this action;

2. Requiring the immediate disclosure and return to Plaintiff of all misappropriated materials, including all media and electronic storage devices and virtual repositories;

3. Requiring the production of all electronic devices operated by Defendant for inspection to verify the use, access, disclosure, printing, copying, and return of Plaintiff's property;

4. For an award of damages according to proof;

5. For judgment that this is an exceptional case;

6. For punitive damages;

7. For restitution;

8. For costs of suit incurred herein;

9. For prejudgment interest;

10. For attorneys' fees and costs;

11. For such other and further relief as the Court deems to be just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury as to all causes of action, claims or issues in this action that are triable as a matter of right to a jury.

Dated: April 24, 2017

Respectfully submitted,

By: *_/s/ Kevin R. Allen_*
Kevin R. Allen, Esq.
Attorneys for Plaintiff Themesoft, Inc.